

Execution Copy

**MASTER POWER PURCHASE AND SALE AGREEMENT
AMENDED AND RESTATED CONFIRMATION LETTER**

This amended and restated confirmation letter shall confirm the Transaction agreed to on April 22, 2002 and effective May 1, 2002 between Calpine Energy Services, L.P. ("Party A") and State of California Department of Water Resources with respect to its responsibilities pursuant to California Water Code Section 80000 *et seq.* regarding the Department of Water Resources Electric Power Fund separate and apart from its powers and responsibilities with respect to the State Water Resources Development System ("Party B") regarding the sale/purchase of the Product under the terms and conditions as follows:

Seller: Calpine Energy Services, L.P.

Buyer: State of California Department of Water Resources

Product:

☐ Into _____, Seller's Daily Choice

☐ Firm (LD)

☐ Firm (No Force Majeure)

☐ System Firm

(Specify System: _____)

☒ Unit Firm – See "Special Conditions" below. Except as set forth in Special Condition (10), the sole remedies for failure to meet such obligations shall be as set forth in Special Condition (8) and Special Condition (12).

(Specify Unit(s): See "Special Conditions" below.)

☐ Other _____

☐ Transmission Contingency (If not marked, no transmission contingency)

☐ FT-Contract Path Contingency ☐ Seller ☐ Buyer

☐ FT-Delivery Point Contingency ☐ Seller ☐ Buyer

☐ Transmission Contingent ☐ Seller ☐ Buyer

☐ Other transmission contingency

(Specify: _____)

Contract Quantity: The Contract Quantity shall be determined monthly throughout the Delivery Period (as defined below) and shall be, as of any date, the aggregate capacity of all Units determined pursuant to Special Condition (9) that have achieved commercial operation (not to exceed four (4) designated Units without the approval of Buyer) where

"SCCOD" means the date by which any Unit has achieved commercial operation in simple cycle;

"CCCOD" means the date on which any Unit has achieved commercial operation in combined cycle; and

"Start Date" means SCCOD for the first Unit that has achieved commercial operation in simple cycle.

It is expected that the Contract Quantity will be 45 MW for each Unit that has achieved commercial operation in simple cycle and 180MW for all four of the IDUs and 56.25 MW for each Unit that has achieved commercial operation in combined cycle and 225 MW for all four of the IDUs.

For the purpose of this Confirmation, except as otherwise specified in Special Condition (8) and Special Condition (12)(d), (e), and (f) deliveries shall be deemed to include uninstructed imbalance energy from the CAISO uninstructed imbalance energy market resulting from events arising after the close of the CAISO hour-ahead scheduling window. Buyer shall not be obligated to pay the Energy Price for any uninstructed imbalance energy resulting from a failure to adjust a schedule or other events occurring prior to (but excluding imbalance energy resulting from events arising after) the close of the CAISO hour-ahead scheduling window unless otherwise agreed to by the Parties in connection with the event giving rise to such imbalance energy.

Delivery Point: With respect to the IDUs, either the Nortech or Los Esteros substation located in or adjacent to the City of San Jose or such other point of interconnection as determined by PG&E to serve the Los Esteros power plant site, and with respect to replacement Units, the high side of any substation or substations in North Path 15 designated by Seller in reasonable proximity of such Units. The Delivery Point shall be a point that connects to the transmission system managed by the California Independent System Operator ("CAISO") or any successor to the CAISO. Seller may schedule one or more different delivery points meeting the foregoing requirements on an hourly basis pursuant to CAISO protocols (or any successor protocols). (See "Special Conditions" below)

Contract Price:

Energy Price:

For each month, Buyer shall pay Seller (i) \$4.00 per MWh scheduled by Buyer and delivered during such month for variable operation and maintenance costs, plus (ii) the Monthly Fuel Costs as follows (negative Monthly Fuel Costs reflect a payment due from Seller to Buyer resulting from an excessive heat rate and Buyer-supplied fuel):

Monthly Fuel Costs:

$$\text{Gross Fuel Costs} \times \text{Heat Rate Factor}$$

$$\text{Gross Fuel Costs} = \text{Monthly Fuel Quantity} \times \text{Monthly Fuel Price}$$

Monthly Fuel Quantity = Monthly metered usage of gas (Mmbtu) for the Unit(s) to generate power scheduled by Buyer in accordance with the "Special Conditions" below, plus equivalent gas at the Guaranteed Heat Rate for any replacement energy, including CAISO imbalance energy. Such monthly metered usage of gas shall be determined based on the ratio of 1) the actual output of the Unit(s) to supply Buyer's scheduled energy (but not any energy generated in excess of Buyer's hourly schedules) to 2) the actual total output of the Unit(s).

Monthly Fuel Price = Gas cost (\$/Mmbtu) as determined under either the Seller Fuel Plan or the Buyer Fuel Plan, as applicable.

Heat Rate Factor:

Under a Seller Fuel Plan:

Minimum of: 1.0, and (Guaranteed Heat Rate/Monthly Effective Heat Rate)

Under a Buyer Fuel Plan:

[Minimum of: 1.0, and (Guaranteed Heat Rate/Monthly Effective Heat Rate)]-1

Guaranteed Heat Rate = 10,500 Btu/kWh to the earlier of CCCOD and June 30, 2003, and
8,500 Btu/kWh from the earlier of CCCOD and July 1, 2003

Monthly Effective Heat Rate = (Monthly Fuel Quantity/Monthly Scheduled Energy)

Monthly Scheduled Energy = Total energy during a month scheduled by Buyer in accordance with "Special Conditions" for delivery by Seller from Unit(s) on Buyer's account

Other Charges:

Subject to "Special Conditions" below, a monthly capacity charge, payable in arrears, calculated as follows:

During the first Contract Year:	\$20 per kW-month multiplied by the Contract Quantity that month;
During the second Contract Year:	\$18 per kW-month multiplied by the Contract Quantity that month; and
During the third Contract Year:	\$16 per kW-month multiplied by the Contract Quantity for that month

where "Contract Year" is any 12 month period ending on an anniversary of the Start Date. Notwithstanding the foregoing, if the Start Date occurs before December 31, 2002, the monthly capacity charge for the period from the Start Date to December 31, 2002 shall be \$22 per kW-month multiplied by the Contract Quantity (or if a Unit comes on line during any month, a prorata portion of such capacity payment payable three Business Days after such Unit achieves commercial operation).

Fuel Plan: By not later than three months before best estimate of the Start Date, and thereafter each year three months before the anniversary of the Start Date, Seller shall provide to Buyer a proposed Annual Fuel Plan detailing prices or pricing methodologies for the acquisition of fuel by Seller on Buyer's account for the next Contract Year. By 30 days after provision by Seller of the proposed first Annual Fuel Plan, and thereafter each year two months before the anniversary of the Start Date, Buyer shall notify Seller if Buyer accepts Seller's proposed Annual Fuel Plan (or a negotiated revision thereto). If such a plan is accepted, it shall become a Seller Fuel Plan for the acquisition of fuel by Seller on Buyer's account. During the term of any Seller Fuel Plan, Buyer shall not be responsible for any fuel imbalance charges or any other charges other than those resulting from any system wide or customer specific Operational Flow Order ("OFO") or Emergency Flow Order ("EFO") conditions. Seller will attempt to mitigate any charges, if any, associated with system wide or customer specific Operational Flow Order or Emergency Flow Order conditions; provided, that such mitigation shall be at no cost to Seller. Other than as set forth in the preceding sentence or elsewhere in this Confirmation, Seller shall be solely responsible for any fuel imbalance charges assessed by the local distribution company (the "LDC") during the term of a Seller Fuel Plan. If no Seller Fuel Plan is accepted, Buyer shall acquire fuel on its own account pursuant to a Buyer Fuel Plan. In that event, Buyer shall be solely responsible for gas supply (including all imbalances), gas must be delivered to Seller at the PG&E Citygate or other mutually agreed upon point, Buyer shall be solely responsible for any LDC charges (including all surcharges, if any, and all imbalance charges) and all charges relating to system wide or customer specific OFOs or EFOs incurred to deliver that gas to the Units, and Seller shall have no obligations to deliver gas or to deliver energy where Buyer fails to deliver the required gas. Notwithstanding the foregoing, any fuel imbalance charges assessed by the LDC resulting under either a Seller Fuel Plan

or a Buyer Fuel Plan as a result of actions or omissions of Seller or Buyer shall be borne by the party to which the fuel imbalances are attributable. Fuel imbalance charges resulting from Force Majeure in respect of the Units shall be borne equally by Buyer and Seller. Seller shall be solely responsible to acquire and pay for any and all gas used to generate energy other than Buyer's scheduled energy (including all surcharges, if any, all imbalance charges and all charges relating to system wide or customer specific OFOs or EFOs). Buyer shall not be required to pay any fees or charges which are not specifically set forth in the Seller Fuel Plan. When Buyer supplies gas to the Units it shall have a pro rata share (calculated on the basis of the total hours scheduled by Buyer in a period as compared to the total hours in such period) of the daily and monthly rights, benefits and obligations that would be available to it as if it were acting as fuel manager, including nominations, balancing rights and imbalance charges assessed within the applicable period under the then-effective applicable LDC tariff or month end imbalance tolerances permitted by such tariff, and fees for services. In exercising such rights, Buyer shall follow customary practices and procedures with respect to nominations, balancing rights and imbalance charges and tolerances as provided in the applicable LDC tariff. If Buyer exceeds its pro rata share of the permitted limits and tolerances under the applicable LDC tariff and fails to promptly bring its activities within such limits and tolerances, Seller shall have the right within one day after notice to make corresponding adjustments to its nominations, volumes and monthly imbalances or, if in effect, daily imbalances, to bring Buyer's activities within the pro rata limits and tolerances in the applicable LDC tariff, and if Buyer is deficient (short) gas, Buyer shall promptly pay Seller Platt's Gas Daily PG&E Citygate Common high, or successor index, for the amount of such imbalance gas and if Buyer is excess (long) gas, Seller shall promptly pay Buyer the Platt's Gas Daily PG&E Citygate Common low, or successor index, for such imbalance gas.

Delivery Period: Start Date until the 3rd anniversary thereof.

Special Conditions: (1) See Cover Sheet to Master Agreement.

(2) Seller will supply energy to be delivered under this Transaction from one or more generation assets (each a "Unit," or as cancelled pursuant to Special Condition (3)(a), and collectively, together with the replacement generation assets designated as provided below, the "Units") located at the Los Esteros power plant site owned by Affiliates of Seller. Seller shall ensure that the capacity rating of the interconnection facilities, interconnection agreement, and transmission connection with the CAISO-controlled grid, is at least equal to the tested capacity of all Units at such site. In simple cycle, a Unit is a single LM 6000. In combined cycle, a Unit is a single LM 6000 and associated steam turbine. The initial four Units will each have a nominal capacity of 45 MW in simple cycle and 56.25 MW in combined cycle. The Units will be installed at the US DataPort North San Jose Project or any successor project at the Los Esteros power plant site (the "Project") (such initial 4

Units being herein defined as the "Initial Designated Units" or "IDUs"). If and to the extent that Seller is experiencing availability problems with the designated Unit(s) due to Forced Outage or Force Majeure, or the Project requires power for use at the Project as a data center and related power uses and not as scheduling coordinator, Seller may, with the approval of the Buyer, change the Unit(s) designated hereunder from time to time upon not less than 15 days notice to Buyer but in no case may Seller change such designation unless: (i) Seller has designated sufficient Unit(s) to supply the then required Contract Quantity; (ii) the replacement Unit(s) deliver energy into the same zone (e.g. North Path 15) as the original Unit; (iii) such replacement Unit(s) shall be designated hereunder for no longer than the duration of the Forced Outage or Force Majeure affecting the original Unit(s) or the power needs of the Project; and (iv) to the extent Seller can choose from different Units in making the designation, in the notice to Buyer the Seller shall advise Buyer of the Options and up to 5 days prior to the expiry of the notice period, Buyer by notice to Seller may select from one of the Options. "Options" means an ordered list of available capacity from other Seller generating assets. If and to the extent that Seller is experiencing availability problems with the designated Units due to Forced Outage or Force Majeure, or the Project requires power, for use at the Project as a data center and related power uses and not as scheduling coordinator, Seller may, with the approval of the Buyer, but shall not be obligated to, supply energy to Buyer under this Transaction from generation assets delivering energy into North Path 15 other than the designated Unit(s) or from energy purchased by Seller in the market, but in no case may Seller supply substitute energy unless the energy from such alternative generation assets or the market is delivered into the same zone as it would have been from the designated Unit(s), subject to provisos (i) through (iv) above.

(3) (a) Seller's obligations hereunder with respect to the energy to be supplied from any Unit are also subject to and contingent on such Unit having achieved "commercial operation" before Seller is obligated to supply energy from such Unit. Buyer's obligations hereunder with respect to capacity and energy to be received from any Unit are subject to and conditioned on such Unit having achieved "commercial operation" before Buyer's obligations to receive energy from such Unit. At least two of the IDUs must achieve commercial operation in simple cycle by March 31, 2003. If none or only one of the IDUs has achieved commercial operation in simple cycle by March 31, 2003, this Transaction shall automatically terminate on April 1, 2003. All of the IDUs must achieve commercial operation by April 30, 2003. If all IDUs have not achieved commercial operation in simple cycle by April 30,

2003, Buyer may, on notice to Seller within 15 days after May 1, 2003, cancel all of its obligations with respect to the designated Unit(s) that has not achieved commercial operation on or prior to March 31, 2003 and its obligations hereunder with respect to such designated Unit(s) shall thereby terminate. (As used herein, "commercial operation" of a Unit means that such Unit has been completed, has passed all material performance tests pursuant to Special Condition (9), Seller or the owner of the Unit has all necessary permits to operate the Unit at the output level for which it was designed not less than 40 MW, the Unit is capable of operating on a sustained basis at substantially the output level for which it was designed, and all interconnections, the capacity rating of the interconnection facilities, the interconnection agreement, and transmission connection are sufficient for the delivery of the full output of the Unit to the CAISO-controlled grid, and shall include reestablishment of commercial operation after the conversion of one or more Units from simple cycle to combined cycle operation). Commercial operation shall not occur until Seller provides written certifications, including a written report of performance test results, signed by a duly authorized officer, to Buyer that the requirements for commercial operation have been achieved and Buyer concurs in writing with such certification. Buyer shall have twenty (20) business days within which to respond to Seller's certification of commercial operation, and failure to respond within such period shall be deemed an acceptance of Seller's certification. If Buyer concurs that commercial operation has occurred or fails to respond within twenty (20) business days as provided in the preceding sentence or if such commercial operation is disputed and such dispute is resolved in favor of the Seller, the date of commercial operation shall be the date Seller provides such written certifications that the requirements for commercial operation have been achieved. Seller agrees to use commercially reasonable efforts (considering among other things cost or availability of financing or cost of the project, the availability, receipt and cost of necessary permits and regulatory approvals, third party services and consents, real estate rights and similar matters and regulatory changes) to cause the IDUs to achieve commercial operation in simple cycle, but Seller shall not otherwise be liable to Buyer or be obligated to provide the quantity of energy to be provided from a Unit unless and until commercial operation is achieved for such Unit. Seller agrees to use commercially reasonable efforts to cause each Unit to achieve commercial operation in combined cycle by fourteen months after SCCOD.

(b) From time to time (but not more frequently than monthly) at Buyer's request, Seller shall provide information to Buyer

regarding the status of construction activities and the then expected commercial operation dates of the Units. Such information shall include status of accomplishing major development and construction milestones including obtaining all permits, securing project financing, acquisition and installation of major equipment, and start-up testing. Buyer may inspect the Units, the Unit construction site or on-site Seller data and information pertaining to the Units reasonably necessary to verify the information provided pursuant to this Special Condition (3)(b) during business hours upon reasonable notice. Seller will not materially decrease the nameplate capacity below that which is referenced in the applicable permit or change the design of the units in a manner that materially impairs Seller's obligations or materially alters Buyer's rights or obligations hereunder without the written approval of Buyer, not to be unreasonably withheld.

(4) The terms and conditions relating to the "Unit Firm" Product will apply separately to each Unit and the energy to be supplied from such Unit.

(5) Seller shall only be required to deliver the energy described in this Transaction if Buyer schedules energy from the Units as provided herein. Subject to the terms and conditions set forth herein, Buyer may schedule such energy only for hours within the Peak Period (as hereinafter defined) and only up to the then applicable Contract Quantity; provided, however, that the quantity of energy which is scheduled must be an amount which will permit all Units necessary to supply such amount to operate between 80% and 100% of capacity and otherwise comply with the ramp times, minimum run times, shut down times and other operating specifications of the manufacturer. As used herein, "Peak Period" means the hours from the hour ending at 0700 through the hour ending at 2200, Pacific Time, Monday through Saturday, excluding NERC holidays, during the Delivery Period.

(6) In the event that the output of a designated Unit is reduced or curtailed for any reason, including a Forced Outage or Force Majeure event, Seller shall be entitled to reduce energy deliveries to Buyer from such Unit to the extent of such reduction or curtailment, without penalty or cost except as may result under Special Condition (8), and such Unit may not be scheduled until such event ends.

(7) The meter for the Units shall be on the high side of the Unit transformer. Any generation meter multiplier (GMM) adjustments shall be for Buyer's account (i.e. notwithstanding any required GMM adjustments, Seller shall be deemed to have delivered the

full metered amount of energy from each Unit). Metering shall conform to CAISO standards or the equivalent. Seller shall provide CAISO metering settlement data to Buyer on a monthly basis, and, at Buyer's option and expense, real-time access to meter data via appropriate telemetering equipment.

(8) (a) After the end of each month, the capacity payment paid or payable that month shall be adjusted (by Buyer making an additional payment or Seller paying a rebate which may be offset by Buyer against any other payments due Seller hereunder) to equal the Adjusted Capacity Payment ("ACP").

Where:

$$ACP = [1 + (EA - \text{Target EA}) \times \text{capacity payment paid or payable}]$$

$$EA = \frac{\text{(Summation of Hourly Availability Factors for Non-Force Majeure Peak Hours)}}{\text{(# of Non-Force Majeure Peak Hours in month)}}$$

Hourly Availability Factor is determined for each Peak Hour that is not excused by Force Majeure as follows (such quotients not to exceed 1.0):

- i) For hours in which Buyer has scheduled energy, the quotient of 1) energy actually or deemed delivered (in accordance with this Confirmation) by Seller to Buyer from the Unit(s) (excluding all replacement energy) plus, if a Buyer Fuel Plan is in effect, any scheduled energy that was undeliverable solely due to the non-delivery of gas, divided by 2) total energy scheduled in accordance with this Confirmation plus any energy delivered from the Units to the Project that Buyer attempted to schedule in accordance with this Confirmation less any scheduled energy that is unavailable during any ramp up of a Unit in accordance with Scheduling below;
- ii) For hours in which Buyer has not scheduled energy, the quotient of 1) Contract Quantity that was actually schedulable for delivery, divided by 2) Contract Quantity. The energy generated by any Unit pursuant to a must offer bid made by Seller into the CAISO supplemental energy market and accepted by CAISO shall be treated as schedulable for the purposes of this clause (ii) for the period of such bid.

Target EA = .98 for the Summer Season or .92 for the Winter Season.

The Summer Season is the Peak Period of the months June through October. The Winter Season is the Peak Period of the months November through May. Peak Hours are any hours in the Peak Period.

For the purposes of (i)(1), energy actually delivered shall include uninstructed imbalance energy described in clauses (ii), (iv) and (v) of Special Condition (12)(b) and any underdeliveries resulting from instructed deviations directed by CAISO but shall specifically exclude uninstructed imbalance energy described in clauses (i), (iii) and (vi) of Special Condition (12)(b) and all other uninstructed imbalance energy not permitted under Special Condition (12)(b).

(b) In addition, the provisions of Article IV of the Master Agreement shall apply to any failure of the Seller to schedule or deliver, or of the Buyer to receive, the Product as provided in this Confirmation.

(c) In addition to any adjustment to ACP under (a) of this Special Condition (8), the ACP for any month shall be reduced in accordance with the following formula provided that such reduction shall not reduce the ACP below zero:

Amount of Reduction of ACP = capacity payment allocable to such month x [(Warning/Stage Alert Hours x 4) / 333]

Warning/Stage Alert Hours = sum of Hourly Factors for hours during which Seller fails to provide any or all Contract Quantity from the Units as scheduled by Buyer in accordance with this Confirmation when the Unit(s) are available for such hours and a day-ahead CAISO warning of a potential stage alert has been issued or any stage alert is in effect for such hours. Units(s) shall not be deemed available for the purposes of this subsection (c) to the extent they are supplying Project load. Hourly Factors shall be the ratio, in any such hour, of: (a) energy scheduled by Buyer in accordance with this Confirmation that was not delivered or deemed delivered from the Units (and for which delivery was not excused hereunder), to (b) energy scheduled by Buyer in accordance with this Confirmation.

(9) The Contract Quantity for each Unit for purposes of determining the capacity payment will be the capacity (in MW) established by testing and adjustment as follows: Not less than five days prior to SCCOD and CCCOD, and thereafter during the

period beginning April 1 and ending April 30 in each Contract Year, Seller will conduct a four hour performance test of each Unit during operations using installed instrumentation, calibrated by Seller (except the Electric Metering Equipment which will be calibrated in accordance with CAISO Requirements) to determine the maximum MW output of each Unit as measured at the Delivery Point for such Unit. Tests shall be conducted pursuant to ASME Performance Test Code 22 in simple cycle mode and ASME Performance Test Code 46 in combined cycle mode. In addition, each of Buyer and Seller may request up to two additional tests per year (at any time) utilizing the same four hour test procedures. After each test, Seller will use performance curves certified by the original equipment manufacturer/architect engineer/vendor to adjust the test results to ISO Conditions. The ISO Condition-adjusted test results will be the "Contract Quantity" for the Unit, effective on the first day of the month following the month in which Buyer receives written notice of the test results, excepting the test results for SCCOD which shall be effective on SCCOD and the test results for CCCOD which shall be effective on CCCOD. Seller will provide forty-eight (48) hours notice to Buyer prior to each test, and provide Buyer with a written report of the test results and subsequent adjustment to the Contract Quantity within the later of five (5) Business Days of each test or as soon as practicable. Buyer is entitled to witness any test of a Unit. Buyer may request third party calibration of instrumentation used in any test, and in the event that a deviation equal to or more than 2% is found, Seller shall bear the cost of such calibration, and if the instrumentation is within 2% deviation then Buyer shall bear such cost.

(10) Notwithstanding anything to the contrary herein, Seller shall arrange and be responsible for transmission service to the Delivery Point, if any, and shall obtain Schedule Coordinator services necessary to deliver the Product to the Delivery Point. Seller shall be responsible for all charges due to the CAISO, and entitled to receive all payments from the CAISO, related to deviations; provided, however, if a schedule change is directed by Buyer, Buyer shall be responsible for all charges due to the CAISO, and entitled to receive all payments from the CAISO, related to such schedule deviations.

(11) (a) Scheduling shall conform to CAISO and WSCC standards. Subject to the other terms and conditions of this Transaction, Buyer shall be entitled to schedule up to 4000 Scheduled Hours (as hereinafter defined) during the Peak Period of each Contract Year during the Delivery Period. Buyer's right to schedule energy

during a Contract Year may not be carried forward or backward between Contract Years (i.e. Scheduled Hours which are not scheduled in one Contract Year may not be carried forward into the next Contract Year, and Buyer may not schedule Scheduled Hours in excess of the foregoing quantities in a Contract Year by “borrowing” them from a future Contract Year).

(b) All energy scheduled from a Unit must be scheduled in minimum 4 hour flat blocks. Except as set forth in subsection (c) and (d), Buyer may only schedule energy that can be scheduled with and deemed delivered by the CAISO or its successor.

(c) All energy shall be scheduled through the CAISO day-ahead or hour-ahead scheduling process; provided, however, that Buyer may schedule up to 2000 Scheduled Hours during each Contract Year during the Delivery Period on the basis of the greater of (a) a 30-minute ahead basis, and (b) the operational limitations of a Unit (“30 Minute Scheduled Hours”); provided, further, however, that when Units are in simple cycle mode Buyer may schedule up to 1000 hours of the 30 Minute Scheduled Hours (the “Real Time Minute Scheduled Hours”) as provided in subsection (d).

(d) The Buyer may schedule the Real Time Minute Scheduled Hours based on the operating status of each Unit as follows: (i) when a Unit is operating at at least 80% of the capacity, such Unit may be dispatched on a 10 minute ahead basis at no incremental cost to Buyer (provided, that nothing herein shall relieve Buyer of the obligation to pay other amounts as provided in this Confirmation), and (ii) when a Unit is not operating but is schedulable, Buyer may reserve a block of hours for a Unit upon 2 hours notice and may schedule during such hours on the basis of the lesser of (a) a 15 minute ahead basis and (b) the operational limitations of a Unit provided that Buyer shall pay Seller the Hot Standby Costs for schedules subject to (a) and (b) and any additional costs mutually agreed to by the Parties with respect to (b). “Hot Standby Costs” shall be the cost per hour for such Contract Year based on the estimated cost of auxiliary power at the PG&E electric tariff rate for the Los Esteros power plant. Prior to the beginning of each Contract Year, Seller shall provide a schedule of such Hot Standby Costs for such Contract Year.

(e) In the event Buyer submits a schedule for any hour hereunder and the Unit(s) are or will be operating to deliver energy to the CAISO supplemental energy market during such hour, such energy shall be deemed (a) delivered hereunder for the purposes of Special Condition (8) and Special Condition (12), and (b) a 30 Minute Scheduled Hour under Special Condition (11), and Seller shall pay to Buyer the positive difference, if any, between the market clearing price of CAISO supplemental energy for such delivery

and the average Energy Price under this Confirmation for the day in which such hour occurs under this Confirmation. As used herein, "Scheduled Hour" means each hour for which energy is scheduled to be delivered hereunder, whether the energy is supplied from one or more of the designated Units or from other generation assets or the market as permitted under paragraph (2) of Special Conditions. Scheduled Hours shall count against the hour limitations set forth in subparagraphs (a), (c) or (d) of this Special Condition (11) on the basis of the last schedule submitted or direction made by Buyer. Notwithstanding the foregoing, Seller shall have the right, upon not less than 15 days' notice to Buyer, to designate one period (not to exceed two weeks in duration) during the Delivery Period during which Buyer may not schedule any Scheduled Hours, and such period shall be deemed time under Force Majeure. If, for any reason, the energy actually delivered differs from the energy scheduled by Buyer pursuant hereto, the Parties will cooperate in making a scheduling adjustment as soon as practical in accordance with the procedures of the CAISO or its successor.

(12) (a) Copies of all day-ahead and hour-ahead schedules with respect to substitute energy market purchases with scheduling coordinators other than Seller shall be delivered by Seller to Buyer by the end of the next day (redacted to remove confidential information, but in all events showing dates, times and volumes). Upon request of Buyer, Seller will provide Buyer with sufficient information to enable Buyer to determine whether Seller's scheduling coordinators are effecting delivery of scheduled Contract Quantity market energy purchases through the CAISO imbalance energy markets. Seller authorizes Buyer to obtain such information from CAISO as may be necessary to determine compliance with the provisions hereof or to determine whether Seller's scheduling coordinators are effecting delivery of scheduled Contract Quantity market energy purchases through the CAISO imbalance energy markets, and Seller hereby waives its right to object to CAISO providing such information to Buyer; provided, however, that Buyer shall only use such information for the purposes of monitoring Seller's compliance with the provisions hereof. Parties elect to make Section 10.11 of the Master Agreement applicable to such information.

(b) Seller will not use the CAISO uninstructed imbalance energy markets to deliver the Contract Quantity except with respect to any (i) under-deliveries resulting from a Unit Forced Outage or an event or circumstance that affects the Unit(s) so as to prevent Seller from performing its obligations, which event or

circumstance was not anticipated as of the date the Transaction was agreed to, and which is not within the reasonable control of, or the result of the negligence of, the Seller, (ii) deliveries of amounts scheduled by Buyer in accordance with this Transaction if the notice given by Buyer is less than the minimum notice required by the CAISO to schedule deliveries of energy under the applicable CAISO tariff and rules, (iii) subject to the provisions of subsection (c) and in addition to under-deliveries resulting from an event described in (b)(i) and (b)(vi), under-deliveries resulting from variations of 3% or less between the amount of energy scheduled and the amount of energy delivered on a monthly basis due to physical variations in the operating levels of the generation equipment which are not caused by Seller and are beyond the reasonable control of the Seller, (iv) failure of a scheduling coordinator other than Seller to deliver substitute energy hereunder, (v) under-deliveries resulting from instructed deviations directed by Buyer, and (vi) under-deliveries resulting from variations between the amount of energy scheduled and the amount of energy delivered due to changes in load for the Project as measured at the Project meter . In connection with generation from the Units, Seller shall not willfully submit infeasible schedules so as to create phantom congestion and then submit decremental bids in connection therewith. Seller shall not submit any negative decremental bids with respect to the Contract Quantity to CAISO unless mutually agreed or claim unavailability of the Units based on Forced Outage or Force Majeure when in fact none exists.

(c) Seller shall cooperate with Buyer and provide Buyer such information relating to the operation of the Units as may reasonably be necessary to determine compliance with the provisions of subsection (b) and this subsection (c). Seller shall (i) notify Buyer prior to the CAISO day-ahead notification deadline for each day in which a Peak Hour occurs of the capacity expected to be available from the Units, net of capacity expected to be utilized by the Project, (ii) on a day-ahead basis, schedule any energy as requested by Buyer in accordance with this Confirmation from such Units on the basis of such estimate, (iii) adjust such schedules to reflect any update to the expected capacity of such Units, net of expected capacity to be utilized by the Project, prior to the close of the CAISO hour-ahead scheduling window for such hour, and (iv) submit a schedule change as soon as possible upon the occurrence of any under-deliveries. To the extent Seller has complied with the provisions of the second sentence of this subsection (c), Seller may, in determining the underdelivery percentage for any hour in any month for the purposes of

subsection (b)(iii), take into account the output from any Generation Assets in such hour after the close of CAISO hour-ahead scheduling deadline for such hour. For the purpose of this subsection (c), "Generation Assets" shall mean generating assets or portions thereof located in California and owned or controlled by Seller or its Affiliates which are direct or indirect wholly-owned subsidiaries of Calpine Corporation which are not under contract as "qualifying facilities" (within the meaning of the Public Utility Regulatory Policies Act). An asset or portion thereof is controlled by Seller or an Affiliate for the purposes of this definition to the extent that Seller or Affiliate has the ability to direct the use of such asset or portion or output thereof pursuant to an agreement.

(d) In the event that the underdelivery percentage in a month under clause (iii) of Special Condition (12)(b), as calculated below, exceeds 3%, the following remedies shall apply:

The ACP payable for a month with respect to the Units scheduled by Buyer during that month shall be reduced as follows:

When the underdelivery percentage for the month is greater than 3.0% and less than or equal to 5.0%, such reduction shall be equal to the underdelivery percentage times the amount of capacity payments allocable to the month;

When the underdelivery percentage is greater than 5.0%, such reduction shall be equal to four times the underdelivery percentage, times the amount of capacity payments allocable to the month; provided that such reduction shall not reduce the ACP below zero.

Where:

Underdelivery Percentage for a month equals $1 - (\text{Monthly Delivered Energy} / \text{Monthly Scheduled Energy})$;

Monthly Delivered Energy is the MWh delivered pursuant to Buyer's schedules during the month, including delivered imbalance energy described in clauses (i), (ii), (iv), (v) and (vi) of Special Condition (12)(b) and any underdeliveries resulting from instructed deviations directed by CAISO, but excluding any other uninstructed imbalance energy;

Monthly Scheduled Energy is the MWh scheduled by Buyer during the month in accordance with this Confirmation.

(e) In the event of any violation of subsection (b) of this Special Condition (12) other than as provided in (d) and (f), in the event

there is any uninstructed imbalance energy in a month not described in clauses (i), (ii), (iii), (iv), (v) or (vi) of Special Condition (12)(b)(without regard to the 3% limit in clause (iii)), the ACP payable for the month with respect to the Units scheduled by Buyer in that month shall be reduced by an amount equal to (i) when the underdelivery percentage for the month applicable to such uninstructed imbalance energy is less than or equal to 5.0%, the underdelivery percentage times the amount of capacity payments allocable to the month, or (ii) when the underdelivery percentage for the month applicable to such uninstructed imbalance energy is greater than 5.0%, four times the underdelivery percentage, times the amount of capacity payments allocable to the month; provided that such reduction shall not reduce the ACP below zero; provided, further, that for the purpose of this paragraph, Monthly Delivered Energy shall equal the MWh delivered pursuant to Buyer's schedules during the month, including uninstructed imbalance energy described in clauses (i), (ii), (iii), (iv), (v) and (vi) of Special Condition (12)(b)(without regard to the 3% limit in clause (iii)) plus under deliveries resulting from instructed deviations directed by CAISO but excluding any other uninstructed imbalance energy.

(f) In the event of any willful violation of subsection (b) of this Special Condition (12), in the event there is any uninstructed imbalance energy in a month not described in clauses (i), (ii), (iii), (iv), (v) or (vi) of Special Condition (12)(b)(without regard to the 3% limit in clause (iii)), the ACP payable for the month with respect to the Units scheduled by Buyer in that month shall be reduced by an amount equal to (1) four times the under delivery percentage applicable to such uninstructed imbalance energy for the first violation, and five times the under delivery percentage applicable to such uninstructed imbalance energy for the second violation, multiplied by (2) the amount of capacity payments allocable to a month; provided that such reduction shall not reduce the ACP below zero; provided, further, that for the purpose of this paragraph, Monthly Delivered Energy shall equal the MWh delivered pursuant to Buyer's schedules during the month, including uninstructed imbalance energy described in clauses (i), (ii), (iii), (iv), (v) and (vi) of Special Condition (12)(b)(without regard to the 3% limit in clause (iii)) plus under deliveries resulting from instructed deviations directed by CAISO but excluding any other uninstructed imbalance energy. Buyer shall promptly notify Seller in writing of any event subject to this subsection (f).

(g) A third willful violation of subsection (b) of this Special Condition (12) shall be an Event of Default that cannot be cured.

(h) Buyer may elect to take any capacity payment reduction as a rebate or as an offset to other amounts payable to Seller.

(g) The Parties agree that Buyer's actual damages in the event Seller fails to schedule or deliver Product in accordance with the terms of this Confirmation or comply with the provisions of Special Condition (12)(b) would be extremely difficult or impracticable to determine and that, after negotiation, the Parties have agreed that the liquidated amounts set forth in Special Conditions (8) and (12) are a reasonable estimate of the damages that Buyer would incur as a result of such failures.

Option Buyer: N/A

Option Seller: N/A

Type of Option: N/A

Strike Price: N/A

Premium: N/A

Exercise Period: N/A

[The next page is the signature page.]

This amended and restated confirmation letter is being provided pursuant to and in accordance with the Amended and Restated Master Power Purchase and Sale Agreement dated April 22, 2002 (the "Master Agreement") between Party A and Party B, and constitutes part of and is subject to the terms and provisions of such Master Agreement. This amended and restated confirmation letter supersedes the Confirmation Letter (Peaking Capacity) dated June 11, 2001 effective May 1, 2002. Terms used but not defined herein shall have the meanings ascribed to them in the Master Agreement.

Calpine Energy Services, L.P.

State of California Department of Water Resources
separate and apart from its powers
and responsibilities with respect to
the State Water Resources
Development System

By: _____

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